

OFFICE OF THE ATTORNEY GENERAL**NOTICE OF PROPOSED RULEMAKING**

The Acting Attorney General for the District of Columbia, pursuant to section 27c(a)(7)(B), (c), and (i) of the District of Columbia Child Support Enforcement Amendment Act of 1985 (Act), effective April 3, 2001 (D.C. Law 13-269; D.C. Official Code § 46-226.03), hereby gives notice of his intent to adopt the following new Chapter 81 of Title 29 of the District of Columbia Municipal Regulations (DCMR), entitled "Child Support Administrative Financial Institution Data Match". The proposed rulemaking will implement the authority of the Office of the Attorney General under section 27c of the Act to enforce child support orders by attaching and seizing assets owned by obligors and held in financial institutions without obtaining a court order. These rules were originally published in the *D.C. Register* on August 8, 2008 at 55 DCR 8526 and were amended to incorporate comments received after publication. They are being republished to provide an additional fifteen (15) day period for public comment on the changes.

The Acting Attorney General also hereby gives notice of his intent to take final rulemaking action to adopt this proposed rulemaking in not less than fifteen (15) days from the date of publication of this notice in the *D.C. Register*.

Title 29, DCMR (Public Welfare) is amended by adding the following new Chapter 81 to read as follows:

CHAPTER 81**CHILD SUPPORT ADMINISTRATIVE FINANCIAL INSTITUTION DATA MATCH**Secs.

8101	Scope
8102	Identification of Funds Subject to Attachment
8103	Attachment and Seizure of Funds
8104	Administrative Hearing
8105	Financial Institutions
8106	Appeal Procedure
8107	Confidentiality
8199	Definitions

8101 SCOPE

- 8101.1 The purpose of this chapter is to implement the Child Support Administrative Financial Institution Data Match Program to enforce child support orders by attaching and seizing funds owned by obligors and held in financial institutions.

8101.2 The Child Support Services Division (CSSD) of the Office of the Attorney General (OAG) shall be responsible for the implementation of this chapter, which shall apply to all obligors and financial institutions.

8102 IDENTIFICATION OF FUNDS SUBJECT TO ATTACHMENT

8102.1 CSSD shall submit DCCSES files to the Federal Parent Locator Service (FPLS) operated by the Federal Office of Child Support Enforcement to identify obligors with funds in financial institutions that meet the criteria for attachment in § 8103.1. The FPLS maintains data on funds held in multi-state financial institutions for the purpose of identifying funds owned by obligors with unpaid child support obligations.

8102.2 Based on individual agreements with single-state financial institutions located in the District of Columbia, CSSD will work to identify obligors with funds in financial institutions that meet the criteria for attachment in 8103.1.

8103 ATTACHMENT AND SEIZURE OF FUNDS

8103.1 Funds in a financial institution shall be subject to attachment when:

- (a) The case is an active case and
 - (1) The current support obligation is thirty (30) days past due; or
 - (2) A judgment support obligation is sixty (60) days past due; or
- (b) The case is an arrears-only case and the total amount of arrears is greater than or equal to five hundred dollars (\$500).

8103.2 If a data match establishes that an obligor has funds in a financial institution and these funds are subject to attachment under § 8103.1, CSSD shall:

- (a) Serve a Writ of Attachment on the financial institution directing attachment of the amount owed for child support; and
- (b) Send written notice of the Writ of Attachment and impending seizure of funds to the obligor and any joint account holder by first class mail to the last known address of the obligor or joint account holder. This notice shall advise the obligor and joint account holder of his or her right to request an agency review pursuant to § 8103.4.

8103.3 Upon receipt of the Writ of Attachment, the financial institution shall freeze the funds in the obligor's accounts up to the amount stated in the Writ.

8103.4 An obligor whose funds are subject to a Writ of Attachment may request an agency review within fifteen (15) calendar days from the date of the notice of the Writ of Attachment described in § 8103.2(b). The obligor may request the agency review by advising CSSD of his or her objections to the Writ of Attachment by phone or in person at CSSD. A joint owner of the attached funds may also request an agency review within fifteen (15) calendar days after the date of the notice of the Writ of Attachment.

8103.5 Grounds for contesting the Writ of Attachment include:

- (a) Notice was issued to the wrong person;
- (b) Arrears are incorrect because of a failure to account for all child support payments, an incorrect computation of the balance due, or a failure to give effect to a prior suspension or modification of the support obligation; or
- (c) Any affirmative defense to enforcement of this money judgment authorized by applicable law, but nothing in these rules authorizes any modification of the support order or any underlying money judgment.

8103.6 Upon receipt of a request for an agency review from an obligor or a joint account holder, CSSD shall review the case and respond to the obligor or joint account holder in writing within ten (10) calendar days. CSSD shall either:

- (a) Withdraw the Writ of Attachment; or
- (b) Advise the obligor or joint account holder of CSSD's intent to move forward with seizure of funds.

8103.7 Funds in a financial institution shall be subject to seizure when:

- (a) The obligor's pay is not currently being withheld and the amount of the funds in the obligor's accounts is greater than or equal to two (2) months of current support; or
- (b) The obligor's pay is being withheld and
 - (1) The total amount of the arrears is greater than or equal to five thousand dollars (\$5,000); and
 - (2) The amount of funds in the obligor's accounts is greater than or equal to two thousand five hundred dollars (\$2,500).

8103.8 CSSD shall seize the funds in the obligor's accounts that are subject to the Writ of Attachment by issuing an Order of Condemnation to the financial institution. If

CSSD determines that funds subject to the Writ of Attachment are not subject to seizure under § 8103.7, CSSD shall withdraw the Writ.

8103.9 Upon a determination that seizure is appropriate; CSSD shall issue the Order of Condemnation to the financial institution and send a copy of the Order of Condemnation to the obligor and joint account holder along with instructions on how he or she can appeal the issuance of the Order of Condemnation to the Office of Administrative Hearings.

8103.10 CSSD shall send the Order of Condemnation to the financial institution, the obligor, and any joint account holder within thirty (30) calendar days of receipt of the financial institution's response to the Writ of Attachment, or if agency review had been requested, within two (2) calendar days of completion of the review.

8104 ADMINISTRATIVE HEARING

8104.1 Regardless of whether the obligor or joint account holder has sought an agency review of the Writ of Attachment, the obligor or joint account holder may object to the seizure of the funds by requesting an administrative hearing from the Office of Administrative Hearings (OAH). Grounds for requesting an administrative hearing shall be the same as the grounds for contesting the Writ of Attachment under § 8103.5.

8104.2 CSSD shall provide the obligor and joint account holder, if applicable, with notice of his or her right to an administrative hearing when CSSD sends the obligor and joint account holder a copy of the Order of Condemnation.

8104.3 The obligor or joint account holder shall request the administrative hearing in writing, either by mailing, faxing or bringing the written request to OAH. The hearing request must be received by OAH within thirty (30) calendar days after the date of the Order of Condemnation sent to the obligor or joint account holder.

8104.4 If the obligor or joint account holder does not request an administrative hearing from OAH, CSSD shall distribute the funds seized from the financial institution to the obligee at the conclusion of the thirty (30) calendar day period for requesting a hearing. If the obligor requests an administrative hearing, CSSD shall retain the funds seized until a decision is rendered by the administrative law judge. CSSD shall then either distribute the funds seized to the obligor and joint account holder or the obligee as required by the decision.

8105 FINANCIAL INSTITUTIONS

8105.1 Upon receipt of the Writ of Attachment, the financial institution shall freeze the

funds in the obligor's accounts up to the amount stated in the Writ.

8105.2 The financial institution shall respond to the Writ of Attachment in writing within ten (10) calendar days of receipt. The response to the Writ of Attachment shall include the following:

(a) The amount of funds in each of the obligor's accounts; and

(b) The name and last known address of any joint account holder.

8105.3 Upon receipt of the Order of Condemnation, the financial institution shall send the funds to CSSD's D.C. Child Support Clearinghouse within ten (10) business days.

8106 APPEAL PROCEDURE

8106.1 The obligor, joint account holder or CSSD may seek judicial review of the administrative hearing decision at the D.C. Court of Appeals in accordance with section 11 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1209; D.C. Official Code § 2-510) and section 19 of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.16).

8106.2 If Court of Appeals reverses OAH's order denying the obligor's or joint account holder's objections to the seizure, CSSD shall credit the obligor's child support obligation for the amount that was distributed, or send payment to the obligor as required by the Court's order.

8107 CONFIDENTIALITY

8107.1 CSSD shall maintain the confidentiality of information and records concerning an obligor's or joint account holder's financial information and shall only release information or records as permitted by applicable provisions of District or federal law.

8199 DEFINITIONS

8199.1 The following terms and phrases shall have the meanings ascribed:

Account – a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account held in any financial institution.

Active Case – a case in which a current support order exists requiring the obligor to make periodic payments on behalf of his or her minor child.

Arrears – past due current child support payments.

Arrears Only Case – a case without a current support order in which arrears are owed.

Current support – amount of ongoing payments owed for a minor child under a support order.

Data match – the process of identifying assets held in financial institutions by obligors who owe child support.

DCCSES – the District of Columbia Child Support Enforcement System, the computer system used by CSSD to manage and enforce child support cases.

Federal Parent Locator Service or FPLS – the national system for locating custodial and non-custodial parents operated by the federal Office of Child Support Enforcement. The FPLS includes the database of Administrative Financial Institution Data Match.

Financial institution – a depository institution, institution-affiliated party, any Federal or State credit union, any benefit association, insurance company, safe deposit company, money-market mutual fund, or similar entity.

Freeze – to retain an obligor's assets at the financial institution without allowing the obligor access to the assets.

Funds – monetary assets.

Judgment support -- a court ordered amount that reflects a set period in the past during which child support should have been paid.

Obligee – the person or entity to whom child support is owed.

Obligor – a person who is required pursuant to a court or administrative order to pay child support.

Wage withholding – the direct retention of ongoing support payments from the wages or earnings of an obligor ordered to pay support.

Writ of Attachment -- legal document that enforces a debt incurred by an obligor by freezing funds at a financial institution.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing within fifteen (15) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Hillary Hoffman-Peak, Assistant Attorney General, Office of the Attorney General, Child Support Services Division, 441 4th Street N.W.,

Washington, DC 20001. Copies of these proposed rules may be obtained without charge at this address.

THE OFFICE OF CONTRACTING AND PROCUREMENT

NOTICE OF PROPOSED RULEMAKING

The Chief Procurement Officer of the District of Columbia, pursuant to authority granted by section 204 of the District of Columbia Procurement Practices Act of 1985 ("PPA"), effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-302.04 (2006 Repl.)), and Mayor's Order 2002-207 (dated December 18, 2002), hereby gives notice of the intent to adopt final rulemaking to add new subparagraphs 3205.1(i), 3205.1(j), 3205.1(k), 3205.1(l) and 3205.1(m) to Chapter 32 of Title 27 of the District of Columbia Municipal Regulations (Contracts and Procurement). The rulemaking is intended to ensure that: (a) the District of Columbia Public Schools ("DCPS") will be able to make tuition payments to non-DCPS schools that provide education services for special education students under the jurisdiction of DCPS prior to the beginning of a regularly scheduled school semester or school session; (b) the Metropolitan Police Department ("MPD") will be able to make tuition payments prior to the beginning of a regularly scheduled school semester or school session on behalf of MPD personnel when such tuition payments are authorized by District of Columbia law or regulations; (c) the Attorney General will be able to make payments for court transcripts, depositions, expert witness fees and other litigation and transactional related legal costs and expenses necessary and appropriate for the Attorney General to properly represent the District of Columbia prior to the receipt of such goods and services; (d) District of Columbia agencies, offices or departments will be able to make advance tuition or fee payments to third-party providers of training seminars or programs directly related to the duties of agency, office or department employees and upon written approval by the director of the agency, office or department, and (e) District of Columbia agencies, offices or departments will be able to provide for food and beverages to District of Columbia employees attending an authorized training seminar or program upon a determination in writing by the applicable agency, office or department director that provision of food and beverages is necessary and appropriate in order for the employees to obtain the full benefit of the training that is directly related to the employees' duties.

The Chief Procurement Officer gives notice of intent to take final rulemaking action in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. The Chief Procurement Officer will submit the rules to the Council of the District of Columbia for a sixty (60) day period of review pursuant to subsection 205(b) of the PPA (D.C. Official Code § 2-302.05(b)), and will not take final rulemaking action until completion of the 60-day review period or Council approval of the rules by resolution before the end of the review period.

CHAPTER 32

CONTRACT FINANCING AND FUNDING

Chapter 32 is amended by adding new subparagraphs 3205.1(i), 3205.1(j), 3205.1(k), 3205.1(l) and 3205.1(m) to read as follows:

3205 ADVANCE PAYMENTS

- 3205.1 (i) Notwithstanding subparagraphs (a) through (g) above, the contracting officer may authorize advance tuition payments to a responsible contractor who is a provider of special education services. The contractor may be paid tuition in advance of a school semester or session for each student enrolled with the contractor whose tuition has been approved for payment by the Chancellor of the District of Columbia Public Schools, or his or her designee;
- 3205.1 (j) Notwithstanding subparagraphs (a) through (g) above, the contracting officer may authorize advance tuition payments to a responsible contractor who is a provider of educational services or programs for Metropolitan Police Department ("MPD") employees when such tuition payments are authorized by District of Columbia law or regulations. The contractor may be paid in advance of a school semester or session for each MPD employee enrolled with the contractor whose tuition has been approved for payment by the Chief of the MPD, or his or her designee, pursuant to District of Columbia law or regulations;
- 3205.1 (k) Notwithstanding subparagraphs (a) through (g) above, the contracting officer may authorize advance payments to a responsible contractor who provides court transcripts, depositions, expert witness testimony, or other litigation or transactional related legal services to the Attorney General upon the Attorney General's determination that such advance payments are necessary and appropriate to enable the Attorney General to properly represent the District of Columbia;
- 3205.1 (l) Notwithstanding subparagraphs (a) through (g) above, the contracting officer may authorize advance payments to a responsible contractor who is a provider of training seminars or programs directly related to the duties of the applicable agency, office or department employees. The contractor may be paid in advance of a training seminar or program for each employee enrolled in a training seminar or program whose tuition or fee has

been approved in writing by the applicable agency, office or department director; and

- 3205.1 (m) Notwithstanding subparagraphs (a) through (g) above, the contracting officer may authorize advance payments to a responsible contractor who is a provider of food and/or beverages for the agency, office or department employees attending a training seminar or program authorized by the applicable agency, office or department director, or his or her designee, and upon a determination in writing by the applicable agency, office or department director that provision of food and beverages is necessary and appropriate in order for the employees to obtain the full benefit of the training that is directly related to the employees' duties.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, to the Chief Procurement Officer, 441 4th Street, 700 South, Washington, D.C. 20001. Comments must be received no later than thirty (30) days from the date of publication of this notice in the *D.C. Register*. A copy of this proposed rulemaking may be obtained at the same address.

THE OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

The State Superintendent of Education, pursuant to the authority set forth in Section 3(b)(11) of the District of Columbia State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code §§38-2602 (b) (11) and 38-2609) (2007 Supp.), (“SEOE”), and Article II, Sections 1 and 4 of an Act to provide compulsory education and school attendance, and for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806; D.C. Official Code §§38-202 through 205) (2001), hereby gives notice of its intent to amend Title 5, Chapter 21, Section 2103 of the *District of Columbia Municipal Regulations* (DCMR), entitled “Attendance and Transfers.”, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. The purpose of the amendment is to focus on a state standard and protocol to address a student’s truant behavior for students enrolled in the District of Columbia Public Schools and public charter schools, referred to collectively as Local Education Agencies (“LEAs”).

This amendment requires LEAs to develop a collaborative truancy protocol seeking to reduce truant behavior, maximize student school attendance, and enhance a student’s academic progress. In this regard, these proposed amendments to Section 2103 reflect the work of a District of Columbia Truancy Task Force, including among others, members of the public at large, representatives from the District of Columbia Public Charter School Board, educational advocates, staff from the District of Columbia Public Schools, the District of Columbia Child and Family Services Agency, other District of Columbia agencies, District of Columbia court officials, the Criminal Justice Coordinating Council and the Metropolitan Police Department. The proposed revision to Section 2103 recognizes the Task Force findings that a truancy prevention program should have a robust assessment capacity with a range of responses that are both preventive and intervening. Finally, the amendment seeks to further facilitate the ability of the State Superintendent of Education to collect accurate data in accordance with Federal and District of Columbia reporting requirements.

Title 5 DCMR, Chapter 21, Section 2103 is amended to read as follows:

2103 Truancy

- 2103.1 Each school-aged child who resides in the District of Columbia is required to attend a public, independent, private, or parochial school or otherwise receive a thorough and regular education through private instruction pursuant to Chapter 52 of this Title. An absence without a valid excuse pursuant to this Chapter shall be unlawful and constitute truancy.
- 2103.2 Each LEA shall develop and implement in each of its schools a specific framework or process for truancy reduction that focuses on academic and

behavioral intervention to address the needs of students and shall include without limitation the following:

- (a) A description of valid and unlawful absences consistent with this Chapter;
- (b) A process for informing, training, and educating school staff, students, parents, guardians, and the community of the LEA's truancy reduction methods, attendance policy, and related collaborative services;
- (c) A procedure for monitoring, reporting, addressing, and evaluating attendance and absences consistent with District of Columbia attendance reporting requirements including:
 - (1) A procedure requiring personal contact(s) with the parent or guardian of a student each time a student has the equivalent of one (1) day of unexcused absence and defining the reasonable timeframe in which this contact must be made;
 - (2) A continuum of services including meaningful supports, incentives, intervention strategies, and consequences for dealing with absenteeism, both at the beginning of absenteeism and in those circumstances where chronic absenteeism persists;
 - (3) Consultation with parents or a guardian by a school-based student support team, or comparable designee(s) as determined by the LEA to develop and implement case management as appropriate;
 - (4) A referral process whereby any student with five (5) or more unlawful absences shall be referred within a specified timeframe to a school-based student support team, which shall:
 - (A) Address and review the student's attendance and related issues;
 - (B) Provide timely responses to the student's truant behavior;
 - (C) Make recommendations for diagnostic or social work services;

- (D) Develop an attendance intervention plan in consultation with the student's parents or guardian; and
 - (E) Use school and community resources to abate the student's truancy; and
- (5) Record-keeping and reporting in a format consistent with data reporting requirements specified by the Office of the State Superintendent of Education;
- (d) A process, including specific due process procedures, for appealing any attendance violation decisions at the school and LEA levels;
- (e) A referral process to the District of Columbia Child and Family Services Agency whereby students between the ages of five (5) and thirteen (13), as well as students with special needs, with ten (10) or more unlawful absences accumulated within one school year shall be referred by the LEA to the Child and Family Services Agency with copies of:
- (1) The truancy record;
 - (2) The local school's intervention plan, and all documentation representing evidence of attendance interventions taken by the school for suspected educational neglect, including personal contacts with, and written notification to, parents or guardians with regard to the unexcused absences;
 - (3) The child's attendance records; and
 - (4) If applicable, the child's Individualized Education Program;
- (f) A referral process whereby students over the age of thirteen (13) who have fifteen (15) or more accumulated days of unexcused absence within one school year may be referred by the LEA to the Office of the Attorney General; the Family Branch, Social Services Division, D.C. Superior Court; or other appropriate agency to safeguard the student's well being which shall include copies of:
- (1) All documentation representing evidence of attendance interventions taken by the school, including personal contacts with, and written notification to, parents or guardians with regard to the unexcused absences;
 - (2) The child's attendance records; and

(3) If applicable, the child's Individualized Education Program;

(g) A process to provide written notification to a parent or guardian in the event a referral is made under paragraphs (e) and (f) of this subsection.

2103.3 The standards for school attendance may identify a specific number of excessive or unlawful absences allowed within a marking period, semester, or school year, provided that reporting is consistent with applicable laws and regulations.

2103.4 The Office of the State Superintendent shall develop reporting procedures as appropriate to assist educational institutions and private instructors with compliance with reporting requirements under applicable federal and District of Columbia laws.

2199 Definitions

“Local Education Agency (LEA)” means an educational institution at the local level that exists primarily to operate schools or to contract for educational services, including the District of Columbia Public Schools (DCPS) and each individually chartered public charter school.

“Truant” means a school aged child who is absent without lawful cause as defined in this chapter from attendance for a school day or portion of it.

“School-based student support team” means a team formed to support the individual student by developing and implementing action plans and strategies that are school-based or community-based depending on the availability to enhance the student's success with services, incentives, intervention strategies and consequences for dealing with absenteeism.

“School-aged child” means a child who is five (5) years old or older by September 30 of a current school year but who has not yet reached his or her eighteenth (18th) birthday.

Persons wishing to comment on these proposed rules should submit their comments in writing to Deborah A. Gist, State Superintendent of Education, 441 4th Street, NW, Room 350N, Washington, D.C. 20001, Attn: Beth Colleye. All comments must be received by the Office of the State Superintendent of Education not later than thirty (30) days after publication of this notice in the *DC Register*. The proposed rulemaking amendment and related information may also be obtained on the Office of the State Superintendent website at osse.dc.gov; or by contacting the Office of the State Superintendent of Education in writing or calling (202) 727-6436.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

NOTICE OF PROPOSED RULEMAKING

APPLICATION NO. 17886

The Board of Zoning Adjustment of the District of Columbia, pursuant to the authority set forth in section 206 of the Foreign Missions Act, approved August 24, 1982 (96 Stat. 286, D.C. Official Code § 6-1306), and the Zoning Regulations of the District of Columbia, hereby gives notice of its intention to approve, or in the alternative, disapprove, Application No. 17886, of **The Republic of South Africa** to allow the expansion and renovation of an existing chancery (offices of a foreign mission) in the D/NOPD/TSP/R-1-B District at premises 3101 Massachusetts Avenue, N.W. (Square 2145, Lot 826).

Final action on this application will be taken in not less than thirty days from the date of publication of this notice.

Written comments may be submitted to the Board of Zoning Adjustment through Jerrily Kress, FAIA, Director of the Office of Zoning, at 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001. Copies of this notice are available from the Office of Zoning. For further information, call the Office of Zoning at (202) 727-6311.